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Testimony Submitted by Steven L. Rubin on March 10, 2022 to Human Services Committee on behalf of the Connecticut Chapter of the National Academy of Elder Law Attorneys

I am a Certified Elder Law Attorney by the National Elder Law Foundation, practicing Elder Law, Special Needs Planning, Public Benefit Law and Estate ~~planning~~ Planning based out of Milford Connecticut. I am the President of the Connecticut Chapter of the National Academy of Elder Law Attorneys and served on the Senior Fraud Legislative Task Force. I testify before you today on a number of different issues.

In ~~-~~support of H.B. No. 5340 An Act Concerning Equitable Medicaid Payments and Eligibility Determinations for Applicants and recipients and Family Caregivers

HB 5340 addresses a problem faced by many Connecticut seniors who are attempting to obtain benefits under the Connecticut Home Care Program for the Elders.

When an applicant for Medicaid benefits applies for care while residing in a nursing home, the Connecticut Department of Social Services under Federal Law makes payments for nursing home care for three months directly prior to the date of the Medicaid Application, ~~-~~as long as the applicant is eligible for benefits on the filing date. However, for a~~A~~pplicants to the home care program, although governed by the same law as the care for institutional benefits, DSS currently does not pay for services until the Medicaid application is approved.

As an elder law attorney, I often see cases where individuals apply for home care and run out of funds prior to the application being approved. Based on the applications I have worked on, the process can take a period of 90 days or more to complete and get care started. In many situations, there are delays ~~to obtaining information necessary for~~to the application ~~to be~~being completed, caused ~~-~~by obtaining the requested information by DSS. When applying for home care benefits, an applicant is already in the situation where care is necessary, the need for the care does not wait for the application approval. This leaves the family to make some very difficult decisions:

- Can a child or someone else pay for the care out of their own ~~proceeds~~pocket, knowing they are unlikely to ever be reimbursed~~-themselves-~~, and it could have a significant impact on their own livelihood?
- Should the individual avoid having care at home, and run the risk of injury or greater care needs by not obtaining any assistance during this period of time?

- Does the applicant go into a nursing home temporarily, knowing that the longer the stay in the facility, the odds of returning home decrease significantly?
- Does the family receive care from a private care agency, but fail to make payments and go into default where they are essentially judgement proof?
- Will family members provide the care ~~are~~ at home and ~~have~~ suffer their own loss of income?

Picking from these options is a selection of "picking the best from the worst." There are no good options here to provide the care for this situation. For individuals who are married, the rules of the program not only limits the benefits the individual can have, but also the spouse. In many cases, the amount that is to be protected for the spouse ~~is~~ ends up being used to pay for care and causes potential risk for that spouse to require earlier and more expensive care, or not being able to afford to live independently because they no longer have the funds to do so.

This policy is not just a paper issue, but a ~~real world~~real-world issue. I have a number of cases where this is ~~at~~ an issue right now:

1. We have a client who is in need of home care. ~~-~~The application for benefits has been pending, but he was discharged home. He is blind, has cancer and is a military veteran. His wife is still employed full time and his children are students. The application process has taken a significant length of time to complete. During this period, his wife has racked up over $35,000 dollars of additional home care bills while she is at work. ~~-~~The house already has a mortgage on it, the assets have been dwindling down, so she had no choice but to put it all on her credit card bill. She is now going to have to pay additional expenses and interest over time to just get the benefit. Had she left her husband in the nursing home, she would not have racked up any of these expenses, but he may never had made it home again. There is no reason that these expenses should not be covered as if he were in a nursing home.
2. Another case, mom was discharged home from a nursing home with renal failure, cancer, vision issues and hearing loss. She requires supervision and her son moved into the house to help at night, but during the day he must go to work. Mom needs someone with her during the day while he is at work and the pending Medicaid application will not reimburse him for this period of time. So what is her son to do? He owns his own home, has a spouse and already moved into his ~~moms~~mom's home to assist her. Mom being Medicaid eligible would have gotten retroactive payments in the nursing home, but not at home.

The cost for keeping someone at home is significantly less than in a facility. The State of Connecticut has a goal for individuals to enter institutions ~~by choice and not because it is necessary~~[LP1]~~,~~by necessity and not by choice, as ~~that~~ reasonable supports should be available at home.

The system for benefits is broken and must be fixed to help represent the citizens of the ~~state~~ State of Connecticut. CTNAELA stands fully behind Retroactive Medicaid Benefits, and reiterates the testimony from Attorney Linnea Levine on February 18, ~~220~~ 20220 ~~Regarding~~ regarding SB84 on Retroactive Benefits. We urge this committee to pass this legislation and ensure fairness in the benefit process.

Very truly yours,

Steven L. Rubin